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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/528,886	03/23/2005	Dieter Wagels	PSEE 200021	1561

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FAY SHARPE LLP
1100 SUPERIOR AVENUE, SEVENTH FLOOR
CLEVELAND, OH 44114

EXAMINER

NGUYEN, KIEN T

ART UNIT	PAPER NUMBER
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3711

MAIL DATE	DELIVERY MODE
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11/14/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/528,886

Applicant(s)

WAGELS, DIETER

Examiner

Kien T. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,8,11 and 13-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,8,11,13-26 and 28-30 is/are rejected.
- 7) ☒ Claim(s) 27 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

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Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 8, 11, 13, 14, 20-22, 25, 26, 28, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holler U.S. Patent 6,134,849 in view of Jones U.S. Patent 5,842,667.

Holler disclosed a structure system including a non-pressurized hall with boundaries and partially open at (14); the hall has a shape that is convex on all sides. The structure system of Holler can be used as an aircraft hangar (col. 1, line 16). The hall comprises at least two zones (left side and right side). It is noted that Holler does not specifically disclose the flying unit as set forth in these claims. However, Jones disclosed a flying unit (10) that is able to start vertically and can accommodate at least one person for flying freely and having at least one control means (col. 3, lines 39-43), the flying unit of Jones is designed as a flying disk with a platform (24) (see Fig. 1), in the center (34) of which space for at least one person is provided, a lifting unit assembly (16). The lifting unit assembly comprises a plurality of separate lifting units (16) that distributed around the center and are able to trigger a lifting effect that is distributed uniformly around the center, the lifting units are downward-operating lifting blowers (17). Therefore, it would have been obvious to one of ordinary skill in the art to utilize the

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non-pressurized hall of Holler to store and allowing the flying unit of Jones to move freely within the hall.

As for claims 11, 13, 14, the specification of the present application indicated that the specifics of the flying unit and its lifting units are shown in as examples and they do not appear to be a point of novelty of the claimed invention. Accordingly, it would have been a matter of design to one skilled in the art to modify the flying units and its lifting units with any desired form to accommodate any specific environment or theme.

Regarding claims 28 and 30, it would have been a matter of design choice to design the hall with any desired suitable dimension relative to the flying unit to accommodate any particular amount of flying unit within the hall.

Claims 15-19, 23, 24, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holler in view of Jones as applied to claims 1 and 20 above, and further in view of Walker U.S. Patent 6,965,816.

It is noted that Holler and Jones failed to specifically teach the use of distance or position sensor and a remote control device for controlling the movements of the flying unit. However, Walker disclosed a system that can track an airplane (101) inherently using a position or distance sensor usually in the "black box" on the airplane and a remote control using wireless system as shown in Figs. 7 and 10 for remotely controlling the movements of the airplane. Therefore, it would have been obvious to one of ordinary skill in the art to modify the combination of Holler and Jones with the teachings as discussed above Walker to achieve the predictable result of greater control of the movements of the flying unit.

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Regarding claim 29, please see the above explanation for claims 28 and 30.

Allowable Subject Matter

Claim 27 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

In response to applicant's argument that Holler failed to teach the "boundary means" as claimed because of the portal (14), the portal (14) of Holler is inherently intended as an ingress/egress for the purpose of moving the airplanes in and out of the facility. Such portal could be opened or closed using a slide door which is typical in this environment. Therefore, it is submitted that Holler's portal meets the limitation "boundary means" as claimed. Regarding the limitation "control means", the flying unit of Jones does contain a control means as discussed above. Accordingly, such argument is not persuasive.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re*

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Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, as stated above, the motivation of the combination of Holler in view of *Jones* is to allow the flying unit of *Jones* to be stored and/or moved freely within the hall.

Applicant's arguments with respect to claims 15-17, 19, and 24 have been considered but are moot in view the newly cited reference as requested by the applicant.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kien T. Nguyen whose telephone number is (571) 272-4428. The examiner can normally be reached on 7:30 AM-5:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene Kim can be reached on (571) 272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kien. T. Nguyen/
Kien T. Nguyen, Primary Examiner
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Ktn